



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2022-0416; FRL-9820-01-R9]

Limited Approval, Limited Disapproval of California Air Plan Revisions; California Air Resources Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing a limited approval and limited disapproval of California Code of Regulations, Title 17, Division 3, Chapter 1, Subchapter 10 Climate Change, Article 4, Subarticle 13: Greenhouse Gas Emission Standards for Crude Oil and Natural Gas Facilities (Oil and Gas Methane Rule) into the California State Implementation Plan (SIP). These revisions concern emissions of volatile organic compounds (VOCs) from crude oil and natural gas facilities. We are proposing action on a state rule to regulate these emission sources under the Clean Air Act (CAA or the Act). We are also proposing to disapprove the reasonably available control technology demonstrations for the 2008 and 2015 ozone National Ambient Air Quality Standards (NAAQS) for sources covered by the EPA's 2016 Control Techniques Guidelines for the Oil and Natural Gas Industry (Oil and Gas CTG) for the Sacramento Metropolitan Air Quality Management District (SMAQMD), San Joaquin Valley Air Pollution Control District (SJVAPCD), South Coast Air Quality Management District (SCAQMD), Ventura County Air Pollution Control District (VCAPCD), and the Yolo-Solano Air Quality Management District (YSAQMD). We are taking comments on this proposal and plan to follow with a final action.

DATES: Comments must be received on or before [Insert date 30 days after date of publication in the *Federal Register*].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2022-0416

at <https://www.regulations.gov>. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

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SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to the EPA.

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I. The State's Submittal

- A. *What did the State submit?*

Table 1 lists the rule addressed by this proposal with the dates that it was adopted and submitted by the California Air Resources Board (CARB).

TABLE 1 - SUBMITTED RULE

Agency	Rule Title	Adopted	Submitted
CARB	California Code of Regulations, Title 17, Division 3, Chapter 1, Subchapter 10 Climate Change, Article 4 Subarticle 13: Greenhouse Gas Emission Standards for Crude Oil and Natural Gas Facilities (Oil and Gas Methane Rule)	03/23/2017	12/11/2018

The submission also contains a staff report evaluating the Oil and Gas Methane Rule against the Federal RACT standard, and concluding that the Oil and Gas Methane Rule, in combination with applicable SIP-approved local air district rules, meets the RACT requirement for 2008 and 2015 ozone National Ambient Air Quality Standards (NAAQS) for sources covered by the EPA's 2016 Control Techniques Guidelines for the Oil and Natural Gas Industry for SMAQMD, SJVAPCD, SCAQMD¹, VCAPCD, and YSAQMD. On June 11, 2019, the submittal

¹ The SCAQMD regulates both the South Coast Air Basin, and the Riverside County (Coachella Valley) ozone nonattainment areas.

for the Oil and Gas Methane Rule was deemed by operation of law to meet the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of this rule?

There are no previous versions of the Oil and Gas Methane Rule in the California SIP.

C. What is the purpose of the submitted rule?

Emissions of VOCs contribute to the production of ground-level ozone, smog and particulate matter (PM), which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions. The Oil and Gas Methane Rule establishes methane emission standards for crude oil and natural gas facilities in furtherance of the California Global Warming Solutions Act (AB 32, as codified in sections 38500-38599 of the Health and Safety Code). Because many of the methane controls in the Oil and Gas Methane Rule also reduce VOC emissions, the Oil and Gas Methane Rule was submitted into the California SIP as a rule that controls VOC emissions. The EPA's technical support document (TSD) has more information about this rule.

II. The EPA's Evaluation and Action

A. How is the EPA evaluating the rule?

Rules in the SIP must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193).

Generally, SIP rules must require reasonably available control technology (RACT) for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each major source of VOCs in ozone nonattainment areas classified as Moderate or above (see CAA section 182(b)(2)). Five California air districts contain nonattainment areas classified as Moderate or above for the 2008 or 2015 ozone NAAQS, and contain operations covered by the

Oil and Gas CTG: SMAQMD, SJVAPCD, SCAQMD, VCAPCD, and YSAQMD.² We refer to these districts collectively as “applicable local air districts.” The Oil and Gas Methane Rule applies statewide, including within the applicable local air districts. Therefore, this rule must implement RACT.

Guidance and policy documents that we used to evaluate enforceability, revision/relaxation, and rule stringency requirements for the applicable criteria pollutants include the following:

1. "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
2. “Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,” EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).
3. “Guidance Document for Correcting Common VOC & Other Rule Deficiencies,” EPA Region 9, August 21, 2001 (the Little Bluebook).
4. EPA 453/B-16-001, Control Techniques Guidelines for the Oil and Natural Gas Industry, October 2016.

B. *Does the rule meet the evaluation criteria?*

The Oil and Gas Methane Rule improves the SIP by establishing emission limits and by clarifying monitoring, recording and recordkeeping provisions. The rule is largely consistent with CAA requirements and relevant guidance regarding enforceability, RACT and SIP revisions. However, the Oil and Gas Methane Rule contains a number of deficiencies that preclude full approval. The rule provisions that do not meet the evaluation criteria are summarized below and discussed further in the TSD.

C. *What are the rule deficiencies?*

The Oil and Gas Methane Rule contains several provisions that do not meet the

² 40 CFR 81.305. See also Staff Report at pp. 1-2.

enforceability or stringency criteria. These provisions do not satisfy the requirements of section 110 and part D of title I of the Act and prevent full approval of the SIP revision. Key issues include insufficiently bounded director's discretion, lack of clearly specified test methods for some categories of emission sources, undefined terms, references to undefined district rules, insufficient reporting and recordkeeping, and a lack of initial and continuous compliance requirements for some categories of emission sources. Additionally, the rule may not capture all storage tanks in the oil and gas sector in the applicable local air districts that are required to meet RACT; the rule allows delay of leak repairs in several sections; and there are several exemptions in the rule that may reduce the rule's stringency. The TSD includes in-depth descriptions of the rule deficiencies.

In addition, the RACT demonstration for the applicable local air districts relies on both the Oil and Gas Methane Rule, and the SIP-approved local rules regulating sources covered by the Oil and Gas CTG. Some of these rules contain deficiencies that would preclude approval of the RACT demonstration for these districts, even if the deficiencies in the Oil and Gas Methane Rule were rectified. These deficiencies are identified and discussed in the TSD.

D. *The EPA's recommendations to further improve the rule*

The TSD includes recommendations for the next time CARB modifies the rule.

E. *Public comment and proposed action*

As authorized in section 110(k)(3) of the Act, the EPA is proposing a limited approval and limited disapproval of the submitted rule. Even though the rule has deficiencies, the EPA concludes that the Oil and Gas Methane Rule would substantially strengthen the SIP. The limited disapproval for the Oil and Gas Methane Rule is based on the enforceability and stringency issues identified in section II.C. of this notice and described in detail in the TSD.

In addition, as authorized in section 110(k)(3) of the Act, the EPA is proposing a disapproval of the RACT demonstrations for the 2008 and 2015 ozone National Ambient Air Quality Standards (NAAQS) for sources covered by the Oil and Gas CTG for SMAQMD,

SJVAPCD, SCAQMD, VCAPCD, and YSAQMD.

We will accept comments from the public on this proposal until **[Insert date 30 days after date of publication in the *Federal Register*]**. If finalized, this action would incorporate the submitted rule into the SIP, including those provisions identified as deficient. If we finalize this disapproval, CAA section 110(c) would require the EPA to promulgate a Federal implementation plan within 24 months unless we approve subsequent SIP revisions that correct the deficiencies identified in the final disapproval.

In addition, final disapproval would trigger the offset sanction in CAA section 179(b)(2) 18 months after the effective date of a final disapproval, and the highway funding sanction in CAA section 179(b)(1) six months after the offset sanction is imposed. A sanction will not be imposed if the EPA determines that a subsequent SIP submission corrects the deficiencies identified in our final action before the applicable deadline. The EPA intends to work with the CARB and the applicable local air districts to correct the deficiencies in a timely manner.

Note that the submitted rule has been adopted by CARB, and the EPA's final limited disapproval would not prevent the State from enforcing it. The limited disapproval also would not prevent any portion of the rule from being incorporated by reference into the federally enforceable SIP as discussed in a July 9, 1992 EPA memo found at:

<https://www.epa.gov/sites/production/files/2015-07/documents/procsip.pdf>.

III. Incorporation by Reference

In this rulemaking, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the CARB rule listed in Table 1 and discussed in Section I of this preamble. The EPA has made, and will continue to make, these materials available through <https://www.regulations.gov> and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Statutory and Executive Order Reviews

Additional information about these statutes and Executive orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA because this action does not impose additional requirements beyond those imposed by state law.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities beyond those imposed by state law.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action does not impose additional requirements beyond those imposed by state law. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, will result from this action.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Coordination with Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175, because the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive order. This action is not subject to Executive Order 13045 because it does not impose additional requirements beyond those imposed by state law.

H. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

Section 12(d) of the NTTAA directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. The EPA believes that this action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with the CAA.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Population

The EPA lacks the discretionary authority to address environmental justice in this rulemaking.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference,

Intergovernmental relations, Reporting and recordkeeping requirements, Volatile organic compounds.

AUTHORITY: 42 U.S.C. 7401 *et seq.*

Dated: May 4, 2022.

Martha Guzman Aceves,
Regional Administrator,
Region IX.

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